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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-third session

SUMMARY RECORD OF THE 1286th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 10 August 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

later: Mr. YUTZIS

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Czech Republic

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Second to ninth periodic reports of Gabon (CERD/C/315/Add.1; HRI/CORE/1/Add.65)

1. The CHAIRMAN said that the secretariat had received from the Permanent Mission of Gabon a letter dated 10 August 1988 informing it that, for reasons beyond its control, no Gabonese delegation would be able to attend the Committee's consideration of its second to ninth periodic reports and asking for consideration of those reports to be deferred. The Committee must therefore choose between discussing the periodic report in the absence of any representative of Gabon and acceding to the Mission's request.

2. Mr. NOPEL (Country Rapporteur) stressed that the report was very late. After its initial report in 1981, Gabon had not kept up with the requirement to submit timely periodic reports to the Committee. As there was little substance to it, he thought the report should be considered without delay so as to produce recommendations with a view to a better dialogue with Gabon in the future.

3. After an exchange of views in which Mr. BANTON and Mr. WOLFRUM took part, the CHAIRMAN invited Mr. Nobel to present his report on the implementation of the Convention in Gabon.

4. Mr. NOBEL (Country Rapporteur) said that Gabon ascribed the cumulative delays in the submission of its periodic reports to a lack of human resources. He emphasized that States were bound under the Convention to submit regular periodic reports to the Committee, and that they could if need be refer to the Committee's general guidelines regarding the form and contents of reports (CERD/C/70/Rev.3). Introducing the country's initial report (CERD/C/71/Add.1) in 1981, the representative of Gabon had indicated that his Government had seen no need to adopt legislative, judicial, administrative or other provisions in furtherance of the Convention because there was no racial discrimination among the constituent parts of the Gabonese nation. The Committee had indicated its regret that the report contained no information on steps taken by the Government to give effect to the Convention, pointing out that it was incumbent on Gabon to honour its obligations under article 9, among other things by providing the Committee with clear information on its constitutional, judicial, administrative and other measures as called for in the guidelines.

5. When the situation in Gabon was discussed in 1991, on the basis of the previous report (CERD/C/71/Add.1), the Committee had expressed regret that Gabon had not responded to the invitation to take part in the consideration of its periodic report and provide any relevant information. It had drawn the Government's attention to the possibility of taking advantage of the technical assistance services offered by the Centre for Human Rights in preparing its reports.

6. The report now under consideration was disappointing. The scant information it offered on the demographic composition of the country did not reveal what four groups were referred to in paragraph 7, what proportion of the population they represented, or what differences set them apart. Neither was there any information on the small pygmy population living in the equatorial forest that covered 90 per cent of the country. The report did not say how the pygmies fitted into society or to what extent they had access to education and other public services. Population density, at barely 4 per cent, was low, and the population was heavily concentrated in the large towns and oil-bearing coastal region. It would be helpful to know whether the 200,000 foreigners mentioned in paragraph 12 were included in the population figures established by the 1993 census. Given the estimate by UNHCR that there had been 860 refugees in Gabon at the beginning of 1998, were the figures up to date?

7. He would like to know what had happened to the thousands of people from Equatorial Guinea who, some 20 years earlier, had taken refuge in Gabon from the dictatorship at home, and to the 1,200 Rwandan asylum-seekers said to have been sent back across the border in August 1997. Such information would enable the Committee to determine whether the rights of all refugees, whatever their national or ethnic origin, were respected, whether foreigners enjoyed freedom of movement, and whether the dreadful living conditions in the refugee centres had improved.

8. Gabon had threatened in 1997 to expel all illegal immigrants, thus provoking a mass exodus of foreigners. He would therefore like to know what foreigners were now living in Gabon, what their legal status was, how they were treated and what legislative provisions they could invoke to become naturalized.

9. The 1997 U.S. Department of State report said of Gabon that there was ethnic favouritism in appointments and promotions in both the public and private sectors and in the army, the President's ethnic group being disproportionately represented. According to other sources, the two main ethnic groups (the Fang and the Echira, at 36 per cent and 25 per cent respectively of the total population) dominated political and economic life. A June 1998 article in Le Monde Diplomatique reported that the general public, demoralized by electoral fraud and ethnic rivalry, could only take to the streets to express its opinions; that discussion on the place of ethnic groups within the nation, although necessary, was regarded as dangerous and constantly deferred; that the main ethnic groups regarded the State as a means of ensuring their economic security and dominance; and that political parties mirrored ethnic divisions.

10. The report gave no information on how the Convention had been incorporated into Gabonese domestic law, whether any procedures existed for invoking it, whether legislation had been passed to prohibit racial discrimination as required by article 4, or how articles 6 and 7 were applied in Gabon. He had the feeling that the Gabonese leadership was loath to discuss ethnic questions lest it undermine national unity; but that attitude prevented Gabon from honouring its obligation to implement the Convention. For the rest, the situation in the country did not seem to be particularly worrisome; Gabon was not mentioned in the 1998 Amnesty International report.

Even so, it would be helpful if Gabon told the Committee frankly about the problems it encountered in implementing the Convention so that possible solutions could be discussed in a dialogue between the State party's representatives and the Committee.

11. Mr. WOLFRUM said he was surprised to read in paragraph 4 of the report that the Constitutional Court verified the constitutionality of international commitments entered into by Gabon; the procedure was rather unusual. Paragraph 7 said that racial discrimination was not a feature of the national culture; he thought it would be useful if the Committee had more information on the 40 ethnic entities that coexisted in Gabon and the cultural diversity that must be presumed to exist among them. It would also be gratifying to know what conditions governed participation by the country's pygmies in economic and social activities, and whether the provisions of article 3 of the Constitution prohibiting racial, ethnic or religious discrimination and regionalist propaganda, as mentioned in paragraph 17 of the report, appeared in the Penal Code. It was particularly important for Gabon to furnish information on case law in that area.

12. Mr. VALENCIA RODRIGUEZ, like Mr. Nobel, observed that Gabon excused its failure to submit periodic reports on the grounds of a lack of human resources, which was an admissible argument given the country's generally difficult economic situation. He urged Gabon to take advantage of the advisory services and technical assistance available from the Office of the High Commissioner for Human Rights so that it could regularly submit full reports.

13. He noted with satisfaction that Gabon had acceded to the main international human rights instruments and that the Convention, as an integral part of domestic legislation, could be invoked directly before the courts. He also noted the statement that racial discrimination was not a feature of the national culture but stressed, given the high proportion of foreigners living in the country and the considerable number of ethnic groups, that applying the Convention was especially important for Gabon.

14. He welcomed the encouraging information in the report on the constitutional safeguards against racial discrimination and guaranteeing freedom of conscience, together with other fundamental human rights. He was sorry, however, that the report said virtually nothing about government action to give effect to articles 4, 5 and 7 of the Convention. He therefore urged Gabon to give more specific information in its next report so that the Committee could better assess the way the Convention was being implemented. For that purpose it could refer to the general guidelines regarding the format and contents of reports and the Committee's concluding observations.

15. Mr. SHERIFIS agreed with the comments by the Rapporteur and the preceding speakers. He observed, besides, that the report contained a number of contradictions, not to say paradoxes. Gabon was one of the few countries to have established a ministry of human rights; the Committee often advocated the establishment of a commission on human rights, but even it never recommended a ministry. That, therefore, was a laudable development. At the same time, Gabon said, rather vaguely, that it intended to uphold the Convention without reporting anything specific it had done.

16. He, too, wondered about the conditions in which the 40 ethnic entities divided into four larger groups lived, and would like more specific information on the subject. On the other hand, he was impressed that schooling up to the age of 16 was compulsory and free. Given the Government's evident willingness to honour its commitments under the Convention, he hoped a direct dialogue could take place when the next periodic report was discussed, and thought that the Committee should invite the State party to take advantage of the technical assistance services on offer.

17. Mr. de GOUTTES regretted the lack of dialogue with the delegation. He found the report itself too short, although it did give some positive information on, for example, the recent constitutional amendments in Gabon (para. 2) and the status of the Convention, which could be invoked directly under domestic legislation. There were still large gaps, however, chief among them the lack of information on the criminal law punishing acts of racism. The Committee could not be satisfied just with the Constitution as assurance that a State party was implementing the Convention. The report said nothing about any prosecutions or judgements. Nor did it provide any socio-economic indicators of the conditions in which the country's various ethnic groups lived. Lastly, it gave no indication of steps taken or even planned to make the principles of the Convention known not only to civil servants but also to the general public. In view of the favouritism that seemed to exist in public life, publicizing the Convention widely would be a particularly valuable step.

18. Mrs. ZOU voiced dismay at the lack of basic information the Committee needed to get an idea of the situation in Gabon. The little information there was in paragraph 7 was far too vague. The 200,000 foreigners said to be living in Gabon represented a large proportion of the population. She understood that a good many Whites lived in Gabon, but they were privileged and could not therefore be victims of discrimination. She was, on the other hand, concerned at the fate of the Blacks, and especially the children. Were children taken into account in the statistic (paragraph 22 of the report) that the school attendance rate was close to 100 per cent? Lastly, she would like more detailed information about the pygmies' living conditions and the action that had been taken to avert threats to the forests where they lived.

19. Mr. YUTZIS commented how unusual it was for a former colonial country to devote so much of its State expenditure (17.2 per cent, according to paragraph 23) to national education. That was an undeniable success. But other questions remained to be answered. Gabon was an oil-producing country, and thus "wealthy" up to a point, but, as in other countries, the wealth did not benefit everybody. The report gave no indication of how wealth was distributed in Gabon, which was firmly committed to liberalism. Were some of the country's 40 ethnic groups not left to fend for themselves?

20. He returned to Mr. Valencia Rodriguez' point that Gabon, as a rich country, should stop pleading a lack of human resources as a reason for delays in submitting its reports. The Committee should remind the country that it could draw on technical assistance services to prepare the reports it had undertaken, under article 9 of the Convention, to submit.

21. Mr. SHAHI endorsed the previous speakers' comments. He would like the Committee to take note of the size of Gabon's education spending and urge the Government to take advantage of the technical assistance services it had frequently been offered.

22. The CHAIRMAN, speaking in his personal capacity, said that while he appreciated the considerable amounts spent on education, he felt it was important to look at that spending in context, for the figure given was a percentage of State expenditure, not of national income.

23. He then asked Mr. Nobel to offer his concluding observations on the Gabonese report.

24. Mr. NOBEL said he saw nothing to suggest serious problems in the situation in Gabon. On the other hand, amid the overall political situation in Africa in the 1990s, tensions had several times, and in several places, degenerated into ethnic conflict. It was not just for abstract reasons that the State party was required to fulfil certain obligations: potentially explosive situations were, in fact, a reality.

25. He proposed to contact the Permanent Mission of Gabon in Geneva informally and tell it that Gabon owed it to itself to take the Committee's recommendations seriously.

26. The CHAIRMAN announced that the Committee had concluded its consideration of the periodic report of Gabon, and that the secretariat would forward members' recommendations and questions to the Gabonese Government.

CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES IN WHICH GENERAL ASSEMBLY RESOLUTION 1524 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION (agenda item 8) (continued) (CERD/C/343)

27. Mr. de GOUTTES said he broadly agreed with the conclusions put forward by Mr. van Boven in his report (CERD/C/343). In the case of the proposed reminder to the Governments concerned to include in their periodic reports information on Non-Self-Governing Territories under their jurisdiction, however, he felt that all States that administered Non-Self-Governing Territories should be addressed, not just the three responsible for the territories identified by Mr. van Boven, Timor, the Western Sahara and New Caledonia. Document CERD/C/343 mentioned 17 Non-Self-Governing Territories. If the reminder was sent to only some States, the others might think they were not obliged to include such information.

28. The CHAIRMAN, speaking in his personal capacity, supported Mr. de Gouttes' proposal. The Committee could also decide to adopt a general recommendation addressed, without naming them, to all States administering a Non-Self-Governing Territory. That would enable the Committee to avoid any political problems.

29. Mr. GARVALOV pointed out that East Timor was on the list of the Ad Hoc Committee on the Situation with Regard to the Implementation of the

Declaration on the Granting of Independence to Colonial Countries and Peoples and was regarded as forming part of Indonesia, a State not party to the Convention.

30. The CHAIRMAN said that the fact that Indonesia was not a party to the Convention was no obstacle to the Committee's consideration of the situation in East Timor under article 15, on the basis of the information available to the Secretary-General.

31. Mr. BANTON pointed out that reports from the administering Powers already provided information about the Non-Self-Governing Territories, so no further recommendation was needed. He reminded members that the Committee's report on its first 20 years of existence also indicated what information administering Powers should provide under article 9.

32. Mr. WOLFRUM, supported by Mr. SHAHI and Mr. YUTZIS, disagreed. Reports submitted by the administering Powers under article 9 of the Convention contained very little information on human rights in the Non-Self-Governing Territories, yet the situation in some was disquieting and the Committee should discuss it.

33. The CHAIRMAN said that the information could appear in a report submitted under article 9 of the Convention.

34. Mr. WOLFRUM favoured a more flexible attitude, invoking either article 9 or article 15 depending on the circumstances. In the case of East Timor raised by Mr. Garvalov, article 15 would seem to be the more appropriate.

35. Mr. BANTON, like Mr. Wolfrum, believed that all the information the Committee needed should be obtained. He saw no purpose, however, in asking States parties to submit information under article 15 given the information they were supposed to provide under article 9. In 1989, the United Kingdom had sent the Committee a note verbale indicating that its report would be submitted under article 9, not article 15. It was in response to that note that the Committee had decided to specify, in its report on its first 20 years of existence, what information administering Powers should furnish in their reports under article 9.

36. Mr. RECHETOV pointed out that the reports called for in article 15 were submitted to other United Nations bodies and were therefore drafted from a viewpoint that did not necessarily correspond to the topics of concern to the Committee. Besides, they were no longer updated so regularly as during the period of decolonization just after the Second World War. The Committee must thus take steps to obtain the information it needed. He thought it preferable to identify the States administering Non-Self-Governing Territories and ask them specific questions, so that they could cover the material in their reports under article 9. He did not think the Committee would obtain the information it needed by making a recommendation to all States parties.

37. Mr. van BOVEN said that the Committee seemed to agree on two of the three proposals in his report, namely that it was necessary to check with the

secretariat that no petition had been submitted and that efforts must be made to ensure that the Special Committee paid more attention to Convention-related issues when it drew up its programme of work.

38. On the question of how to remind the administering Powers that they must provide information about Non-Self-Governing Territories, he sided with those who favoured a more general approach. The Committee should ask States administering Non-Self-Governing Territories to describe the situation as regards racial discrimination there in their reports submitted under article 9. Given the doubts over the status of Puerto Rico, New Caledonia, Aruba and East Timor, for example, the Committee should not seek to identify the States concerned specifically. On the subject of East Timor, he informed his colleagues that during the current session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities Indonesia had announced its intention of ratifying the International Convention on the Elimination of All Forms of Racial Discrimination.

39. The CHAIRMAN said he took it that the Committee wished Mr. van Boven to draft a general recommendation or observation for it to consider later.

40. It was so decided.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Czech Republic

41. Mr. DIACONU referred to reports in the press of Roms in two Czech villages who had been separated from the local population by walls erected in the middle of certain streets. As feelings in Europe and the United States had been running high over the situation, he had taken the initiative of asking the Permanent Representative of the Czech Republic to the United Nations Office at Geneva for clarification. In reply he had received a letter dated 7 August 1998 (reference No. 2697/98, in English).

42. The Czech Minister for Foreign Affairs had sent representatives to the spot, Rom associations had mobilized to defend their brethren's interests and the local authorities were trying to find a solution acceptable to the Roms. It would, Mr. Diaconu believed, be premature to embark on an urgent action procedure. The Committee had two options: wait until it was known what solution the local authorities had decided upon, or send a letter to the Czech authorities asking them, under article 9 of the Convention, what steps they intended to take to settle the dispute and thus comply with the Convention.

43. Mr. BANTON emphasized how grave the incidents were, since two ethnic communities had been physically segregated, and advocated sending a letter to the Czech authorities.

44. Mr. WOLFRUM also favoured that solution. Even if municipalities had certain powers at the local level, they remained under the supervision of the national authorities which had undertaken, by virtue of article 3 of the Convention, to condemn racial segregation and to prohibit and eradicate all practices of that nature in territories under their jurisdiction.

45. Mr. YUTZIS, endorsing the preceding speaker's legal approach, added that article 4 (c) of the Convention could also be said to have been breached, since States parties were required not to permit public authorities or public institutions, national or local, to promote or incite racial discrimination. As things stood, the best solution would be to send a letter to the Czech authorities.

46. The CHAIRMAN suggested that the Committee should mention the question in its annual report to the General Assembly.

47. Mr. SHERIFIS felt that the matter came under article 3 of the Convention and General Recommendation No. XIX. Besides taking a strictly legal approach, the Committee should express its indignation at any situation that amounted to the segregation of population groups on ethnic grounds, without in the present instance condemning the Czech Government, which had not yet reached any decision. A letter must be sent to the national authorities, and the matter must, as the Chairman proposed, be mentioned in the Committee's report to the General Assembly.

48. Mr. Yutzis took the Chair.

49. Mr. de GOUTTES also favoured a firm reaction from the Committee and pointed out that the State party had not merely undertaken to condemn certain acts committed on its territory but also to take positive action to ensure respect for civil rights. The European Commission against Racism and Intolerance had in March 1998 adopted a recommendation on combating discrimination against Roms, and people would not understand if the Committee remained silent on the subject. He therefore supported the idea of a written request for information to the Czech authorities.

50. Mr. van BOVEN said that the matter at hand was symptomatic of a mindset about which the Committee had already voiced concern as it completed its consideration of the most recent periodic report from the Czech Republic. A letter should be sent, and the matter should be mentioned in the Committee's report to the General Assembly.

51. Mr. RECHETOV said that the Committee should be on its guard against any decision by the authorities of the State party that might breach article 3 of the Convention. Racial segregation and apartheid could appear in new guises, and the Committee must condemn them unambiguously.

52. Mr. GARVALOV spoke of the fateful mistakes of the past and the lessons to be learned from them. He, too, favoured sending the Czech Government a letter and mentioning the incident in the annual report to the General Assembly.

53. The CHAIRMAN said there was clearly a broad consensus in favour of sending a letter to the authorities of the State party and referring to the question in the Committee's report to the General Assembly. He requested Mr. Banton to draft appropriate wording.

54. It was so decided.

The meeting rose at 5.50 p.m.